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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,627

07/11/2006

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87691 knm

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1333 7590 10/03/2011  
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EXAMINER

NAHAR, QAMRUN

ART UNIT

PAPER NUMBER

2191

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/585,627	VAU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	QAMRUN NAHAR	2191	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 May 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1-9 and 11-17 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-9 and 11-17 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

Art Unit: 2191

### **DETAILED ACTION**

1. This action is in response to the RCE filed on 05/16/2011.
2. The objections to claims 7 and 14 are withdrawn in view of applicant's amendment.
3. Claims 1, 5, 7, and 14 have been amended.
4. Claims 1-9 and 11-17 are pending.

### ***Response to Amendment***

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-9 and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansson (U.S. 6,023,620) in view of Matsunami (U.S. 6,775,830), and further in view of Wolfe (US 2005/0027846).

### **Per Claim 1:**

Hansson teaches automatically sending from an applications server to the terminal digital data containing the programming agent comprised of the encoded digital data that constitute the multimedia application, based on the digital data of a message initially sent from the terminal to said applications server ("...Referring now to FIG. 1, there is illustrated an apparatus for remotely downloading software into a cellular telephone. An update server processor 100

Art Unit: 2191

communicates with a cellular telephone network 120 which in turn provides wireless communication to a cellular telephone 110. ...” in column 2, lines 7-10); automatically extracting the multimedia application from the digital data sent to the terminal; automatically saving the programming agent in the terminal and executing the multimedia application at the terminal (“...The update server processor 100 contains the new version of the software and controls the process for downloading the new software into the cellular telephone 110. ... When a new version of the software is available, the update server processor 100 transmits a message via the cellular telephone network 120 to the cellular telephone 110 offering the option to download the new version of the software. ...” in column 2, lines 10-15 and lines 40-45). Hansson does not explicitly teach automatically deleting the programming agent and the multimedia application from said terminal when the programming agent is deactivated.

However, Matsunami teaches automatically deleting the programming agent from said terminal when the programming agent is deactivated (“... deleting the installer program and the install files from the shared LU after completion of the install work ...” in column 11, lines 30-32; Automatically deleting includes automatically deactivation of the installer program.).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the process disclosed by Hansson to include automatically deleting the programming agent from said terminal when the programming agent is deactivated using the teaching of Matsunami. The modification would be obvious because one of ordinary skill in the art would be motivated to efficiently install a program in a computer system (Matsunami, column 2, lines 15-19).

Art Unit: 2191

However, Wolfe teaches automatically deleting the multimedia application from said terminal when the programming agent is deactivated (“... In embodiments of the present invention, once the program has been exited and/or use otherwise terminated, the program may be automatically deleted and/or un-installed, and the program license may be available to others if requested via offer interface located on other machines. ...” in par. 0060).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the process disclosed by Hansson to include automatically deleting the multimedia application from said terminal when the programming agent is deactivated using the teaching of Wolfe. The modification would be obvious because one of ordinary skill in the art would be motivated to know whether the software has already been installed or uninstalled (Wolfe, par. 0009 and par. 0010).

**Per Claim 2:**

Hansson further teaches characterized in that the digital data containing the programming agent is a multimedia message of MMS type capable of containing image, text, sound and an application program (column 2, lines 56-60).

**Per Claim 3:**

Hansson further teaches characterized in that the message initially sent from the terminal is an SMS type text message (column 4, lines 16-26).

**Per Claim 4:**

Art Unit: 2191

Hansson further teaches further comprising a step of automatically displaying the programming agent at the terminal in an identified format, such as alphanumeric, or such as an icon (column 3, lines 25-40).

**Per Claim 5:**

Hansson further teaches characterized in that the programming agent is an encoded application program (column 4, lines 27-31).

**Per Claim 6:**

Hansson further teaches characterized in that a payment request for sending the digital data containing the programming agent to the terminal is performed automatically, before the step of automatically sending, said payment request being integrated into an automatic payment procedure (column 4, lines 16-26).

**Per Claim 7:**

Hansson further teaches further comprising activating the programming agent to automatically execute the multimedia application corresponding with the encoded digital data (column 2, lines 41-55).

**Per Claim 8:**

Hansson further teaches characterized in that the activation of the programming agent performs an automatic formatting (column 2, lines 7-15).

Art Unit: 2191

**Per Claim 9:**

Hansson further teaches further comprising, after the step of executing the multimedia application, the terminal sending the digital data containing the programming agent to at least a second terminal (column 2, lines 8-15).

**Per Claim 11:**

Matsunami further teaches further comprising storing the programming agent and the multimedia application on the terminal for a preset period, and automatically destroying the programming agent and the multimedia application at an end of the preset period (column 8, lines 18-40; column 9, lines 5-8 and column 11, lines 30-32).

**Per Claim 12:**

Matsunami further teaches characterized in that the preset period is included in the digital data containing the programming agent (column 11, lines 30-32).

**Per Claim 13:**

Matsunami further teaches characterized in that the programming agent and the multimedia application are automatically destroyed after a preset number of activations of the programming agent (column 9, line 66 to column 10, line 17).

**Per Claim 14:**

Art Unit: 2191

Hansson further teaches characterized in that a request for executing imaging work is sent from the terminal to a platform for executing imaging work capable of communicating with the terminal (column 2, lines 7-15).

**Per Claim 15:**

Hansson further teaches characterized in that the platform for executing photographic work is a photographic laboratory or kiosk (column 3, lines 60-65).

**Per Claim 16:**

Hansson further teaches wherein the programming agent automatically displays, on a screen of the terminal, user interface elements adapted to the platform for executing photographic work, or an online service (column 3, lines 35-39).

**Per Claim 17:**

Hansson further teaches characterized in that the terminal is a mobile terminal (column 4, lines 9-10).

***Response to Arguments***

7. Applicant's arguments filed on 05/16/2011 have been fully considered but they are not persuasive.

*In the remarks, the applicant argues that:*



Art Unit: 2191

a) Hansson does not disclose or suggest in particular, as recited in claim 1 of the present application, to automatically delete the old software of Hansson following its execution on the terminal, that is, automatically deleting the programming agent and the multimedia application, from the time when the programming agent is deactivated.

*Examiner's response:*

a) Hansson is not relied upon for the limitation "automatically deleting the programming agent and the multimedia application from said terminal when the programming agent is deactivated". Instead Matsunami and Wolfe are relied upon for the above limitation. Please see the rejection above in par. 6.

*In the remarks, the applicant argues that:*

b) Matsunami et al. does not address the problem of a device, such as a terminal, having a reduced memory capacity. Therefore, Matsunami et al. does not contemplate or incite that only one application program should be stored at the same time into the terminal to avoid blocking a memory in the terminal.

*Examiner's response:*

b) Matsunami teaches automatically deleting the programming agent from said terminal when the programming agent is deactivated ("... deleting the installer program and the install files from the shared LU after completion of the install work ..." in column 11, lines 30-32; Automatically deleting includes automatic deactivation of the installer program.).

Art Unit: 2191

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., reduced memory capacity) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

*In the remarks, the applicant argues that:*

c) Wolfe et al. no longer addresses the problem of a terminal, having a reduced memory capacity. Wolfe et al. discloses that an agent 32, for example a software component, included in a managed client 20, may contact periodically or at regular intervals, remote servers 22 to process instructions (see, in Wolfe et al.: paragraphs [0032], [0043], [0044]; figures 1 and 4). It is determined that a program, or an offer icon, are downloaded or removed from a managed client (device) by the agent (see, in Wolfe et al.: paragraphs [0068] to [0070]; figure 4).

*Examiner's response:*

c) Wolfe teaches automatically deleting the multimedia application from said terminal when the programming agent is deactivated ("... In embodiments of the present invention, once the program has been exited and/or use otherwise terminated, the program may be automatically deleted and/or un-installed, and the program license may be available to others if requested via offer interface located on other machines. ..." in par. 0060).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., reduced

Art Unit: 2191

memory capacity) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

8. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y Zhen, can be reached on (571) 272-3708. The fax phone number for the organization where this application or processing is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Qamrun Nahar/  
Primary Examiner, Art Unit 2191